

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

JOHN F. THOMAS [aka JOHN RODGERS,
JONATHAN WEST, JOHN FRANK, and
JOHN MARSHALL], THOMAS BECKER,
DOUGLAS MARTIN, PAUL HANSON,
DAMIAN OSTERTAG, EINSTEIN SPORTS
ADVISORY, LLC, QSA, LLC,
VEGAS BASKETBALL CLUB, LLC,
VEGAS FOOTBALL CLUB, LLC,
WELLINGTON SPORTS CLUB, LLC,
WELSCORP, INC., and EXECUTIVE
FINANCIAL SERVICES, INC.,

Defendants.

Case No. 2:19-cv-01515-APG-VCF

**ORDER GRANTING FINAL
JUDGMENT AS TO THOMAS BECKER**

[ECF No. 94]

This matter came before the Court upon Plaintiff Securities and Exchange Commission's ("SEC") Motion for Default Judgments against Defendants: (1) John F. Thomas, aka John Rodgers, Jonathan West, John Frank, and John Marshall; (2) Thomas Becker; (3) Einstein Sports Advisory, LLC; (4) QSA, LLC; (5) Vegas Basketball Club, LLC; (6) Vegas Football Club, LLC; (7) Wellington Sports Club, LLC; (8) Welscorp, Inc.; (9) Paul Hanson; and (10) Executive Financial Services, Inc., under Federal Rule of Civil Procedure 55(b). The Court having considered the memoranda and evidence filed by the parties, and all other argument and evidence presented to it, and good cause appearing therefor, GRANTS the SEC's Motion and enters this Final Judgment against Thomas Becker ("Defendant").

I.

I HEREBY ORDER that Defendant is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

I FURTHER ORDER that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant’s officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

II.

I FURTHER ORDER that Defendant is permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- 1 (a) to employ any device, scheme, or artifice to defraud;
- 2 (b) to obtain money or property by means of any untrue statement of a material fact
- 3 or any omission of a material fact necessary in order to make the statements
- 4 made, in light of the circumstances under which they were made, not misleading;
- 5 or
- 6 (c) to engage in any transaction, practice, or course of business which operates or
- 7 would operate as a fraud or deceit upon the purchaser.

8 I FURTHER ORDER that, as provided in Federal Rule of Civil Procedure 65(d)(2), the

9 foregoing paragraph also binds the following who receive actual notice of this Final Judgment by

10 personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and

11 attorneys; and (b) other persons in active concert or participation with Defendant or with anyone

12 described in (a).

13 III.

14 I FURTHER ORDER that Defendant is permanently restrained and enjoined from

15 violating Section 5 of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the

16 absence of any applicable exemption:

- 17 (a) Unless a registration statement is in effect as to a security, making use of any
- 18 means or instruments of transportation or communication in interstate commerce
- 19 or of the mails to sell such security through the use or medium of any prospectus
- 20 or otherwise;
- 21 (b) Unless a registration statement is in effect as to a security, carrying or causing to
- 22 be carried through the mails or in interstate commerce, by any means or
- 23

1 instruments of transportation, any such security for the purpose of sale or for
2 delivery after sale; or

3 (c) Making use of any means or instruments of transportation or communication in
4 interstate commerce or of the mails to offer to sell or offer to buy through the use
5 or medium of any prospectus or otherwise any security, unless a registration
6 statement has been filed with the Commission as to such security, or while the
7 registration statement is the subject of a refusal order or stop order or (prior to the
8 effective date of the registration statement) any public proceeding or examination
9 under Section 8 of the Securities Act [15 U.S.C. § 77h].

10 I FURTHER ORDER that, as provided in Federal Rule of Civil Procedure 65(d)(2), the
11 foregoing paragraph also binds the following who receive actual notice of this Final Judgment by
12 personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and
13 attorneys; and (b) other persons in active concert or participation with Defendant or with anyone
14 described in (a).

15 IV.

16 I FURTHER ORDER that under Section 21(d)(5) of the Exchange Act [15 U.S.C.
17 § 78u(d)(5)], Defendant is permanently restrained and enjoined from directly or indirectly,
18 including but not limited to, through any entity owned or controlled by him, participating in the
19 issuance, purchase, offer, or sale of any security in an unregistered offering provided, however,
20 that such injunction shall not prevent him from purchasing or selling securities for his own
21 personal account.

22 I FURTHER ORDER that, as provided in Federal Rule of Civil Procedure 65(d)(2), the
23 foregoing paragraph also binds the following who receive actual notice of this Final Judgment by

1 personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and
2 attorneys; and (b) other persons in active concert or participation with Defendant or with anyone
3 described in (a).

4 V.

5 I FURTHER ORDER that Defendant is jointly and severally liable with John F. Thomas,
6 aka John Rodgers, Jonathan West, John Frank, and John Marshall, for disgorgement of
7 \$8,053,285.75, representing net profits gained as a result of the conduct alleged in the
8 Complaint, together with prejudgment interest thereon in the amount of \$403,152.99, and a civil
9 penalty in the amount of \$400,000 under Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d),
10 and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), for a total of \$8,856,438.74,
11 due to the Securities and Exchange Commission within 30 days after entry of this Final
12 Judgment.

13 Defendant may transmit payment electronically to the Commission, which will provide
14 detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly
15 from a bank account via Pay.gov through the SEC website at
16 <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified check, bank
17 cashier's check, or United States postal money order payable to the Securities and Exchange
18 Commission, which shall be delivered or mailed to

19 Enterprise Services Center

20 Accounts Receivable Branch

21 6500 South MacArthur Boulevard

22 Oklahoma City, OK 73169
23

1 and shall be accompanied by a letter identifying the case title, civil action number, and name of
2 this Court; Thomas Becker as a defendant in this action; and specifying that payment is made
3 pursuant to this Final Judgment.

4 Defendant shall simultaneously transmit photocopies of evidence of payment and case
5 identifying information to the Commission's counsel in this action. By making this payment,
6 Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part
7 of the funds shall be returned to Defendant.

8 The Commission may enforce the Court's judgment for disgorgement and prejudgment
9 interest by using all collection procedures authorized by law at any time after 30 days following
10 entry of this Final Judgment.

11 The Commission may enforce the Court's judgment for penalties by the use of all
12 collection procedures authorized by law at any time after 30 days following entry of this Final
13 Judgment. Defendant shall be liable to pay post judgment interest on any amounts due after 30
14 days of the entry of this Final Judgment pursuant to 28 U.S.C. § 1961. The Commission shall
15 hold the funds, together with any interest and income earned thereon (collectively, the "Fund"),
16 pending further order of the Court.

17 The Commission may propose a plan to distribute the Fund subject to the Court's
18 approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund
19 provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court shall retain
20 jurisdiction over the administration of any distribution of the Fund and the Fund may only be
21 disbursed pursuant to an Order of the Court.

22 Regardless of whether any such Fair Fund distribution is made, civil penalties pursuant to
23 this Judgment shall be treated as penalties paid to the government for all purposes, including all

1 tax purposes. To preserve the deterrent effect of the civil penalty, Defendant shall not, after
2 offset or reduction of any award of compensatory damages in any Related Investor Action based
3 on Defendant's payment of disgorgement in this action, argue that he is entitled to, nor shall he
4 further benefit by, offset or reduction of such compensatory damages award by the amount of
5 any part of Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the court
6 in any Related Investor Action grants such a Penalty Offset, Defendant shall, within 30 days
7 after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this
8 action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund,
9 as the Commission directs. Such a payment shall not be deemed an additional civil penalty and
10 shall not be deemed to change the amount of the civil penalty imposed in this Judgment. For
11 purposes of this paragraph, a "Related Investor Action" means a private damages action brought
12 against Defendant by or on behalf of one or more investors based on substantially the same facts
13 as alleged in the Complaint in this action.


14 VI.

15 I FURTHER ORDER that this Court shall retain jurisdiction of this matter for the
16 purposes of enforcing the terms of this Final Judgment.

17 VII.

18 There being no just reason for delay, under Rule 54(b) of the Federal Rules of Civil
19 Procedure, the Clerk is ordered to enter this Final Judgment without further notice.

20 DATED: November 20, 2020

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22 _____
23 ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE